

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BLACKWELL PUBLISHING, INC.,
ELSEVIER, INC., ELSEVIER B.V.,
WALTER de GRUYTER GmbH & CO. KG,
MASSACHUSETTS MEDICAL SOCIETY,
WILEY-LISS, INC., and
WILEY PERIODICALS, INC.,

Plaintiffs,

V.

FEDERAL STATE OF
NORDRHEIN-WESTFALEN, GERMANY,
d/b/a ZBMED,

Defendant.

CIVIL ACT..NO. 04-10050-NG-MB

JOINT MOTION TO AMEND SCHEDULING ORDER

and TO CONTINUE STATUS CONFERENCE

The parties jointly move to continue the Status conference scheduled for Tuesday April 12, 2005 at 2:15pm to **May 25, 2005 at 3:00 pm** and to amend the deadlines set out in the Scheduling Order entered by this Court at the Status Conference on November 23, 2004, as follows:

- July 21, 2005: All motions pursuant to Fed. R. Civ. P. 12, 15, 19, and 20 filed.
- October 28, 2005: All discovery on copies delivered into the United States completed.
- February 3, 2006: All dispositive motions pursuant to Fed. R. Civ. P. 56, with respect to copies delivered into the United States, filed.

As grounds for this motion, the parties state:

1. The parties have concluded another round of revisions to a settlement agreement among counsel in Germany, United Kingdom and the United States. This conference continues the productive joint discussions of prior months. The parties are now advancing their work on their fifth draft of a settlement agreement which they hope will resolve this litigation and a related litigation in London. Counsel in the U.S. action are both of the view that the remaining open points (the open points have been reduced further since our last discussions) can be resolved and that they are likely to be resolved in the course of working out the next revision to the settlement agreement – which the parties hope will be near the last. Both agree that it would be the best and most efficient use of the Court's time and counsels' time to continue to focus on their productive settlement efforts.

2. Counsel, William S. Strong, for the plaintiffs, and David S. Korzenik, for the defendant, have both conferred with Ms. Dianalynn Saccoccio of Chambers to advise the Court of the parties' progress toward settlement. The parties are available for a status conference on May 25 (after 3 p.m.), May 26, or May 27, or on any day of the following week. The parties have requested a forty-five (approx.) day extension of time since they want to maintain the tempo of their settlement effort in both the U.S. and the U.K. litigations.

3. Accordingly, the parties jointly request that their status conference of April 12, 2005 be adjourned to May 25, 2005 or a later date as is preferable for the Court, and that the deadlines set forth in the Scheduling Order be extended each as noted below. In the alternative, if the Court prefers, the counsel would be pleased to report by telephone conference on the status of their settlement activities.

4. In their Joint Statement Pursuant to Local Rule 16.1(D), which was filed with the Court on July 17, 2004, the parties agreed to discovery deadlines and proposed deadlines for the filing of motions.

5. After a Status Conference on July 23, 2004, the Court (Bowler, M.J.) adopted the schedule proposed by the parties. After a Status Conference on November 23, 2004 the deadlines were extended.

6. In light of progress made in ongoing settlement negotiations, the parties now seek to extend, by approximately one and a half month, the deadlines set out in that schedule.

7. Allowing the extended time periods set out in this motion will not prejudice any party or the Court, and will permit the parties to concentrate their energies on seeking to reach settlement.

WHEREFORE, the undersigned parties respectfully request that the deadline for filing of motions pursuant to Fed. R. Civ. P. 12, 15, 19, and 20 be extended from June 7, 2005 to July 21, 2005; that the deadline for discovery on copies delivered into the United States be extended from September 16, 2005 to October 28, 2005; and that the deadline for filing of motions for summary judgment pursuant to Fed. R. Civ. P. 56, as to copies delivered into the United States, be extended from December 20, 2005 to February 3, 2006.

Respectfully submitted,

BLACKWELL PUBLISHING, INC.,
ELSEVIER, INC.,
ELSEVIER SCIENCE B.V.,
WALTER de GRUYTER GmbH & CO. KG,
WILEY-LISS, INC., and

FEDERAL STATE OF NORDRHEIN-
WESTFALEN, GERMANY, d/b/a
ZBMED,
Defendant

WILEY PERIODICALS, INC.,
Plaintiffs

By their attorneys,

/s/ William S. Strong
William S. Strong, BBO #483520
Amy C. Mainelli, BBO #657201
KOTIN, CRABTREE & STRONG, LLP
One Bowdoin Square
Boston, MA 02114
(617) 227-7031

By its attorneys,

/s/ David S. Korzenik
David S. Korzenik, New York DK1767
(Admitted pro hac vice)
MILLER AND KORZENIK, LLP
488 Madison Avenue, 11th Floor
New York, N.Y. 10022
(212) 752-9200

and

/s/ Robert A. Bertsche
Robert A. Bertsche, BBO #554333
PRINCE, LOBEL, GLOVSKY & TYE LLP
585 Commercial St.
Boston, MA 02109
(617) 456-8000

Dated: April 12, 2005